

**THE NEUBERGER FIRM**

ATTORNEYS AND COUNSELLORS AT LAW

TWO EAST SEVENTH STREET

SUITE 302

WILMINGTON, DELAWARE 19801-3707

THOMAS S. NEUBERGER, ESQUIRE  
STEPHEN J. NEUBERGER, ESQUIRE  
RAEANN WARNER, ESQUIRE

WWW.NEUBERGERLAW.COM  
EMAIL: INFO@NEUBERGERLAW.COM

PHONE: (302) 655-0582  
FAX: (302) 655-9329

August 8, 2008

**VIA CM/ECF AND  
HAND DELIVERY**

The Honorable Joseph J. Farnan, Jr.  
Lock Box 27  
United States District Court  
District of Delaware  
844 King Street  
Wilmington, DE 19801

**RE: Kia Thomas, et al. v. Board of Education of the Brandywine School District, et al.**  
**C.A. No. 08-205 (JJF)**  
**Proposed Rule 16 Scheduling Order**

Dear Judge Farnan:

Pursuant to your letter of July 28, 2008, the parties have conferred and attached is their proposed scheduling order.

Respectfully yours,

/s/ Raeann Warner

Attorney for Plaintiff

Enclosure

cc: Barry M. Willoughby, Esquire (via CM/ECF)  
Robert Jacobs, Esquire (via E-Mail)  
Client (via U.S. Mail)

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

**KIA THOMAS and JEROME PITTS, SR., as  
Guardians ad Litem for J  
P** , a minor,

**Plaintiff,**

**v.**

**BOARD OF EDUCATION OF THE  
BRANDYWINE SCHOOL DISTRICT;  
JOSEPH BRUMSKILL, MARK HUXSOLL,  
SANDRA SKELLEY, OLIVIA JOHNSON-  
HARRIS, CRAIG GILBERT, DEBRA  
HEFFERNAN and NANCY DOOREY, all  
individually and in their official capacities as  
members of the Board of Education of the  
Brandywine School District; BRUCE HARTER,  
individually and his official capacity as  
Superintendent of the Brandywine School  
District; and RACHEL HOLT, individually,**

**Defendants.**

**C.A.No. 08-205-JJF**

**RULE 16 SCHEDULING ORDER**

The parties having satisfied their obligations under Fed. R. Civ. P. 26(f),

IT IS ORDERED that:

1. **Pre-Discovery Disclosures.** The parties will exchange by September 12, 2008 the information required by Fed. R. Civ. P. 26(a)(1) and D. Del. LR 16.1.
2. **Joinder of other Parties.** All motions to join other parties shall be filed on or before December 12, 2008.
3. **Settlement Conference.** Pursuant to 28 U.S.C. §636, this matter is referred to

Magistrate Judge \_\_\_\_\_ for the purposes of exploring the possibility of a settlement. If the parties agree that they would benefit from a settlement conference, the parties shall contact the Magistrate Judge to schedule a settlement conference so as to be completed no later than the Pretrial Conference or a date ordered by the Court.

**4. Discovery.**

(a) Exchange and completion of interrogatories, identification of all fact witnesses and document production shall be commenced so as to be completed by February 13, 2009.

(b) Maximum of 25 interrogatories by each party to any other party.

(c) Maximum of 50 requests for admission by each party to any other party.

(d) Maximum of 25 depositions by plaintiff(s) and by defendant(s).

Depositions shall not commence until the discovery required by Paragraph 4 (a, b and c) are completed.

(e) Reports from retained experts required by Fed. R. Civ. P. 26(a)(2) are due from the party with the burden of proof on the issue the expert is offered by November 17, 2008 and December 17, 2008 for rebuttal.

(f) Any party desiring to depose an expert witness shall notice and complete said deposition no later than thirty (30) days from receipt of said expert's report, unless otherwise agreed in writing by the parties.

**5. Non-Case Dispositive Motions.**

(a) Any non-case dispositive motion, along with an Opening Brief, shall be filed with a Notice of Motion. The Notice of Motion shall indicate the date on which the

movant seeks to have the motion heard. The hearing date selected shall allow time for filing of the motion, allow for briefing in accordance with the Federal and Local Rules, and shall permit all briefing to be filed no later than 12:00 noon the Friday before the motion day on which it is to be heard. Available motion dates will be posted on the Court's website at:  
<http://www.ded.uscourts.gov/JJFmain.htm>.

(b) At the motion hearing, each side will be allocated ten (10) minutes to argue and respond to questions from the Court.

(c) Upon filing of the Notice of Motion, a copy of said Notice shall be sent to Chambers by-email at: [jjf\\_civil@ded.uscourts.gov](mailto:jjf_civil@ded.uscourts.gov)

6. **Amendment of the Pleadings.** All motions to amend the pleadings shall be filed on or before January 16, 2009.

7. **Case Dispositive Motions.** Any case dispositive motions, pursuant to the Federal Rules of Civil Procedure, shall be served and filed with an opening brief on or before March 13, 2009. Briefing shall be pursuant to D. Del. LR 7.1.2. No case dispositive motion may be filed more than ten (10) days from the above date without leave of the Court. The parties shall follow the Court's procedures for summary judgment motions which is available on the Court's website at: <http://www.ded.uscourts.gov/JJFmain.htm>

8. **Applications by Motion.**

(a) Any applications to the Court shall be by written motion filed with the Clerk of the Court in compliance with the Federal Rules of Civil Procedure and the Local Rules of Civil Practice for the United States District Court for the District of Delaware (Amended Effective June 30, 2007). Any nondispositive motion shall contain the statement required by D.Del. LR 7.1.1 and be made in accordance with the Court's February 1, 2008 Order on

Procedures for filing non-dispositive motions in non-patent cases (pro se cases excluded). Briefs shall be limited to no more than ten (10) pages. Parties may file stipulated and unopposed Orders with the Clerk of the Court for the Court's review and signing. The Court will not consider applications and requests submitted by letter or in a form other than a motion.

(b) No facsimile transmissions will be accepted.

(c) No telephone calls shall be made to Chambers.

(d) Any party with a true emergency matter requiring the assistance of the Court shall e-mail Chambers at: [jjf\\_civil@ded.uscourts.gov](mailto:jjf_civil@ded.uscourts.gov). The e-mail shall provide a short statement describing the emergency.

9. **Pretrial Conference and Trial.** After reviewing the parties' Proposed Scheduling Order, the Court will schedule a Pretrial Conference. The Court will determine whether the trial date should be scheduled when the Scheduling Order is entered or at the Pretrial Conference. If scheduling of the trial date is deferred until the Pretrial Conference, the parties and counsel shall anticipate and prepare for a trial to be held within sixty (60) to ninety (90) days of the Pretrial Conference.

---

Date

---

United States District Judge